



SPECIAL CITY COUNCIL MEETING

777 B Street, Hayward, CA 94541

Council Chambers and Virtual Platform (Zoom)

<https://hayward.zoom.us/j/83639328548?pwd=ZUdDZE5lM2R1dHNFbVJoVXJBckdmQT09>

Tuesday, October 10, 2023, 7:00 p.m.

The Special City Council meeting was called to order by Mayor Salinas at 7:05 p.m. The City Council held a hybrid meeting in Council Chambers and virtually via Zoom.

Pledge of Allegiance: Council Member Goldstein

Present: COUNCIL MEMBERS Andrews, Bonilla Jr., Goldstein, Roche, Syrop, Zermeño
MAYOR Salinas

Absent: None

Mayor Salinas read a land acknowledgement for the Ohlone people.

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session on October 10, 2023, at 5:30 p.m., with all members present and no public speakers, regarding four items: 1) conference with legal counsel pursuant to Government Code section 54956.9(d)(2) regarding one matter based on facts and circumstances that are likely to result in litigation; 2) conference with legal counsel pursuant to Government Code section 54956.9(d)(1) regarding City of Hayward v. County of Alameda, et al., Alameda County Superior Court, Case No. 23CV036712; 3) conference with legal counsel pursuant to Government Code section 54956.9(d)(1) regarding Mitchell Engineering, Inc. v. City of Hayward, Alameda County Superior Court, Case No. 22CV011334; and 4) conference with legal counsel pursuant to Government Code section 54956.9(d)(1) regarding Roe v. Montenegro, et al., Alameda County Superior Court, Case No. 22CV010050. Attorney Lawson reported the Council discussed all items and took no reportable action. The closed session adjourned at 6:55 p.m.

PRESENTATION

Mayor Salinas read a Proclamation acknowledging the second Monday of October, October 9, 2023, as Indigenous Peoples' Day in the City of Hayward and urged all to take the time to deepen their understanding of history, cultural significance, sacrifices, resilience, and contributions of the Indigenous People. Mayor Salinas presented the Indigenous Peoples' Day Proclamation to Muwékma Ohlone Tribal Vice Chairwoman Monica Arellano and Muwékma Ohlone Tribal Youth Ambassador Lucas Arellano. Monica Arellano greeted the City Council in her native language and along with her son, Lucas Arellano, thanked the Council for the special recognition.

PUBLIC COMMENTS

Alameda County Supervisor Márquez invited all to attend a community meeting on October 16, 2023, at the Downtown Library, to discuss a bay area affordable housing bond currently proposed for the November 2024 ballot.

TJ with Concerned Citizens urged the City to schedule a work session on the benefits of bringing red light cameras back to Hayward and address continued challenges with traffic problems at intersections.

Peggy Guernsey thanked the Council for the work done addressing a variety of City problems.

Marshawn Wesley, Hayward High School student, invited the Council to attend his school's Downtown Rally parade on October 13, 2023, requested a space for young aspiring actors in the community to showcase their talent, and asked for help with fundraising for a school trip to Scotland.

South Hayward Now/Ahora member echoed comments of appreciation for the work done by the Council, noted support for the St. Regis project with some concerns, and requested that staff address issues with certain traffic lights that were no longer automatic or were delayed.

CITY MANGAGER'S COMMENTS

City Manager McAdoo thanked the public for comments of appreciation stating that staff were ready to support the community and to make it a better place for all.

CONSENT

1. Approve the Minutes of the Special Joint Meeting of the City Council and the Hayward Redevelopment Successor Agency Board on September 26, 2023 **MIN 23-101**

It was moved by Council Member Syrop, seconded by Council Member Roche, and carried unanimously, to approve the minutes of the Special Joint City Council and the Hayward Redevelopment Successor Agency Board Meeting on September 26, 2023, with edits as indicated on the memorandum and as suggested by Council Member Syrop.

2. Adopt a Resolution Accepting Modifications to the City of Hayward Records Retention Program (Policy and Schedule) **CONS 23-503**

Staff report submitted by City Clerk Lens and City Attorney Lawson, dated October 10, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Roche, and carried by the following roll call vote, to adopt the resolution.



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Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-233, "Resolution Adopting the Recommended Revisions to the Records Retention Program Policy and Schedule"

3. Adopt a Resolution Authorizing the Formation of the Hayward Economic Development Corporation as a Nonprofit Public Benefit Corporation; and Finding the Action is Exempt from CEQA Review **CONS 23-523**

Staff report submitted by Assistant City Manager Claussen, dated October 10, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Roche, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Bonilla Jr., Goldstein, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-234, "A Resolution of the City Council of the City of Hayward Authorizing the Formation of the Hayward Economic Development Corporation as a Nonprofit Public Benefit Corporation"

City Clerk Lens noted for the public that Spanish interpretation was being provided for Public Hearing - Item 4 via Zoom in Conference Room 2A and shared the process for individuals to follow to turn on the Zoom interpretation feature.

PUBLIC HEARING

4. Sidewalk Vendor Program: Introduce an Ordinance Related to Text Amendments to the Hayward Municipal Code and the Traffic Code and Adopt a Resolution Supporting the Proposed Text Amendments to Establish Regulations and Guidelines for Sidewalk Vendors in the City of Hayward, Consistent with SB 946, the “Safe Sidewalk Vending Act” of the State of California; and Finding that the Action is Exempt from CEQA Review (Report from Director of Development Services Buizer) **PH 23-038**

Staff report submitted by Development Services Director Buizer, dated October 10, 2023, was filed.

Senior Planner Thompson and Assistant Planner Ochoa provided a synopsis of the staff report.

Members of the City Council thanked City staff for the work done related to the sidewalk vendor program.

Mayor Salinas stated the Council supported street vendors as well as brick and mortar restaurants/businesses, and the City’s goal was to align the proposed ordinance with the State’s regulations by listening to neighborhoods and stakeholders.

Discussion and clarification ensued among members of the City Council and City staff regarding: bathrooms and handwashing were covered under the California Health and Safety Code (CHSC) and enforced by the Alameda County Department of Health (ACDH); open flames would be a violation of CHSC; SB 946 allowed sidewalk vendors to have distance requirements from restaurants as long as they were tied to objective public health, safety and welfare standards and not based upon an economic competition; sidewalk vending is prohibited on roadway medians; certain merchandise already prohibited by federal, state, or local law from being vended will continue to be prohibited; it is recommended that a vending permit fee be waived because it appeared there would be no significant time needed to administer the program but staff would track the number of permits and reevaluate a fee in the future; staff had a conversation with the Hayward Area Recreation and Park District, noting there could be a potential space at one of the parks for sidewalk vendors to congregate; vendors would have to report sales information to the City and be required to pay taxes as a part of the annual business license process; staff was planning to engage a community-based organization to hold workshops for sidewalk vendors and to produce handouts in multiple languages; vendors operating out of their vehicles would be subject to the Peddler Ordinance; during the permitting process, a vendor could provide locations they plan to occupy and on what days; vending on private property is subject to regulations in the Zoning Ordinance; staff would provide a checklist of items needed to get a permit and did not envision an onerous or cumbersome process; the concessionaire exception was contained in the Senate Bill and as the vendor entered into a contractual relationship, the City had obligations to meet; it was staff’s understanding that for prepackaged food items, a Mobile Food Facility Permit was required; a valid California Department of Tax and Fee Administration seller’s permit must accompany the Sidewalk Vending Permit application; while the location of where education would be held was not identified, staff would look into



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busy areas of vending activity; staff was planning to individually inform sidewalk vendors of the permitting process and also invite vendors to a workshop with City and County representatives and someone from a community based organization; support to help vendors get through the process would be available through the Permit Center counter, via telephone, and a website; the effective date of the ordinance would be after the thirty-first day of adoption of the ordinance; the sale of merchandise would make a California Department of Tax and Fee Administration seller's permit a requirement; the proposed fees are from SB 946 with the intention that local jurisdictions could charge a higher fine for someone operating without a permit compared to a vendor that did have a permit but had an operational violation that needed correction; since there was a collaborative and educational approach, enforcement staff would provide alternatives for vendors found not in compliance with regulations; the main concern shared through face to face interactions was that getting a permit may be cost prohibitive; there were resources available through community-based organizations that could provide financial assistance for vendors unable to pay fees; and a permit would have to be displayed including information on the sidewalk vending permit.

Council Member Zermeño suggested that the program include an education component and be shared via a flyer in English, Spanish and Vietnamese with restauranters on what is permitted through State regulations.

Council Member Roche suggested that a link to Alameda County be added on the Access Hayward website to help verify a permit for a vendor or to report a vendor that may not have a permit.

Council Member Bonilla Jr. agreed with Council Member Andrews that the approach of educating vendors by going into the field would be effective, and expressed he wanted to make the process as simple as possible.

Council Member Goldstein suggested adding to Access Hayward the ability for someone to report a violation to ensure compliance with food safety regulations and develop a process for the City to take reports of violations and submit them to Alameda County and or appropriate State departments.

Mayor Salinas stated that there were different types of signs for street vendors and suggested that staff consider signage requirements that were consistent.

Mayor Salinas opened the public hearing at 8:21 p.m.

Guadalupe Angulo, Community Services Commissioner, requested that the City provide supportive resources in various relevant languages, host workshops to assist in filling out paperwork, encouraged collaboration with local experienced community organizations, and

asked for regular updates and reports on the effectiveness of the ordinance and how many vendors successfully completed the permitting process.

South Hayward Now/Ahora member supported the ordinance and SB 946; noted that Gov. Code Section 51038 stated that a local authority could not prohibit a sidewalk vendor from selling food or merchandise in a park owned by a local authority unless there was a concession and this would open many Hayward parks to food vending; and supported a means to fine an unpermitted vendor, and dropping a fee if the vendor obtained a permit within a timeframe.

Araceli Orozco was concerned about the process for obtaining a permit and associated fees, potential language barriers, how vendors would be notified of changes to the City's ordinance, and suggested establishing a site where vendors could get assistance with the application process and find financial resources.

Tony Solorio expressed support for the proposed ordinance, noted that while he understood that sidewalk vending may not be permitted in certain locations due to safety factors, he wondered if vendors could vend on private property and would need to obtain permission from the property owner.

Peggy Guernsey asked if vendors needed to obtain a county permit first, have signage to identify themselves, have their permit and licenses visible; if there would be reassurance that vendors were using clean equipment; if a reporting party would be at risk if they took photographs of a violation; and which agencies would verify sale receipts and enforce sidewalk obstructed by vending.

Mayor Salinas closed the public hearing at 8:36 p.m.

Council Member Andrews suggested the locations at Eden Youth and Family Center, Stack Center, Eden Area ROP, City Hall, and both libraries for conducting education outreach; suggested outdoor outreach in areas such as Edna's Donuts and near Huntwood Avenue; suggested guiding individuals to the community calendar to inform them of outdoor vending opportunities throughout the year; asked that signage guidelines for sidewalk vending be clearly articulated; wondered if CBO grants and updates would be a part of the education; agreed with not having a permit fee and underscored that education was key in implementing the proposed ordinance and ensuring that businesses are supported; acknowledged there were health and safety codes that need to be abided by; was concerned about vendors that use open flame due to surrounding trees and the fire safety hazard this posed and asked staff to follow up with the Fire Department to see if such violations could be addressed immediately; and appreciated the approach of education and making sure the community is supported on both sides of the issue.

Council Member Syrop echoed the Mayor's comments that when making a rule the Council wanted to ensure it was made correctly, with minimal unintended consequences; shared the City surveyed over 1,300 residents, with over 60% in support of sidewalk vendors, some having minimal concerns, and input by small businesses; supported the item overall and made a motion to move the staff recommendation; noted the process was reasonable as long as there



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was technical assistance provided through the City or a CBO and provided in multiple languages to ensure no one was excluded from participating in the formal economy; wanted to revisit the permitting fee in the future as he supported having a progressive fee structure; thanked everyone in the community who contributed to the conversation, underscoring the City had been deliberate in its approach, and was pleased with the recommendation.

Council Member Zermeño appreciated the public safety aspect of the ordinance for consumers, peddlers and vendors; liked that vendors will not be allowed to use Styrofoam; indicated that the proposed ordinance could result in sidewalk vendors opening up successful brick and mortar restaurants in the city one day; recommended that the permit fee be reconsidered as every entrepreneur was aware that some funds are required to start a business, noting the permit fee could be a nominal fee of fifty dollars; recommended that staff identify a marketplace location where a few restaurants or sellers could offer culinary delights; recommended that street vendors have a plan to eventually transition into brick and mortar locations; urged that information be provided to restaurateurs advising why the City could not prohibit street vendors from operating in close proximity due to State regulations; and requested a report in six months on the number of sellers and the effectiveness of the program; and expressed support of the motion.

Council Member Bonilla Jr. stated the ordinance was thoughtful and supported the need of the microeconomy and balancing public safety without overregulating; requested an annual update on the effectiveness of the program; noted that the complexity of the six steps was being underestimated; was interested in the journey of the entrepreneurs from where they are to becoming fully permitted including overcoming any barriers in the process; supported no cost for the permit in the beginning as there may be costs entrepreneurs will be facing; supported finding financial assistance, grants, working with nonprofit organizations and offering dedicated support such as a separate support line for the program; and supported the permitting process but including a strong and robust awareness and educational component rooted in community and providing as much assistance as possible to existing sidewalk vendors to obtain the necessary permits.

In response to Council Member Roche's request to address the public comment regarding vending on private property, Senior Planner Thompson indicated that vending on private property would be considered a food vendor and not a sidewalk vendor and per the food vendor application process, the vendor would be required to get permission from the property owner.

Council Member Roche noted the community was seeking a balance in protecting Hayward's businesses from unfair advantage by vendors setting up in front of or near businesses, and the community's desire to support the entrepreneurial spirit, cultural benefit, and community socialization around street vending; supported the zero dollar permit fee knowing there will be other costs for street vendors such as the cost of getting a business license or county permit and agreed with the suggestion to evaluate applying a fee in the future; agreed with not

criminalizing street vendors; agreed it was reasonable to require street vendors to comply with regulations similar to brick and mortar businesses noting this would provide a safe environment for residents and for people walking around town; was glad that congregate spaces were being considered for vendors and encouraged the Economic Development Committee to explore this further; was interested in multimodal education efforts and agreed with locations suggested by Council Member Andrews; suggested volunteers disseminating flyers; suggested setting up tents with mobile offices located in the community to help individuals with the process; suggested sandwich board signs to have on the streets; suggested a self-help center with a dedicated staff member to get people to comply with the ordinance; and liked the idea of having a hotline for vendors.

Mayor Salinas acknowledged his colleagues on the Economic Development Committee, Council Members Bonilla Jr. and Andrews, for creating a framework for the proposed ordinance; stated that all businesses, including microbusinesses, were leveled up to align and standardize with SB 946; agreed that the proposal was a balanced approach and there may be unintended consequences; favored evaluating the program in a year; appreciated Council Member Zermeño's suggestion about charging something for the permit fee but noted that the Council was trying to spur innovation and incentivize getting all sidewalk vendors on board; stated that with education dissemination, this may be a great opportunity to use Curbie as it was already in neighborhoods such as South Hayward; and understood that the City should do its part to engage vendors and disseminate information as it was the City's program but at the same time he did not want to stifle organizations such as the Hayward Chamber of Commerce which could also plan programming around education.

Mayor Salinas thanked Council Member Syrop for allowing him to move the item. Council Member Syrop seconded the motion.

It was moved by Mayor Salinas, seconded by Council Member Syrop, and carried by the following roll call vote, to approve the resolutions.

AYES:	COUNCIL MEMBERS Andrews, Bonilla Jr., Goldstein, Roche, Syrop, Zermeño MAYOR Salinas
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution 23-235 "Resolution to Adopt Amendments to the Hayward Municipal Code and Traffic Code to Regulate Sidewalk Vending in Hayward, Compliant with Senate Bill (Sb 946), the "Safe Sidewalk Vending Act" and Finding that the Action is Exempt from CEQA Review"



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COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Zermeño shared there would be a good opportunity to see street vendors at the South Hayward Mercadito event hosted by the Eden Youth and Family Center on October 14, 2023.

Council Member Goldstein shared the Hayward Education Foundation would be celebrating its 40th Anniversary at City Hall on October 19, 2023, with tickets being available for sale.

Council Member Andrews shared upcoming events: Trunk or Treat at The Hub in the HUSD Parent Resource Center on October 14, 2023, promoted by Fearless Path; Hayward Public Library's annual Trunk or Treat on October 28, 2023, at the Heritage Plaza; Disposal Day at the City of Hayward's transfer station on October 14, 2023; and the Keep Hayward Clean and Green Task Force Beautification event on October 28, 2023, at Tennyson Park.

Council Member Syrop shared the Hayward Night Market event held at St. Rose Hospital on September 30, 2023, was successful with over 1,000 attendees, and thanked those who were involved.

Mayor Salinas noted St. Rose Hospital was happy to have hosted the Hayward Night Market event and remained open to the idea of having more events in the future.

COUNCIL REFERRALS

5. City Council Referral: A Bench for Every Bus Stop (Referral from Council Members Syrop and Zermeño) **RPT 23-100**

Council referral submitted by Council Members Syrop and Zermeño, dated October 10, 2023, was filed.

Council Member Syrop thanked AC Transit Board Member McCalley, AC Transit Director Del Rosario for providing pertinent information, Emeryville Mayor Bauters for inspiring the referral and Council Member Zermeño for cosigning the referral as they were both members on the AC Transit Interagency Liaison Committee. Council Member Syrop indicated the goal of the referral was to determine how to install affordable and low-maintenance cost benches across the city and offered an amendment to the referral by piloting ten seats, instead of five, as this would be a measurable number to try in a variety of places.

Council Member Zermeño thanked AC Transit for supporting the proposal, spoke about his experience as a bus rider and his advocacy for bus benches as a member of the AC Transit

Interagency Liaison Committee, commented that benches could feature advertising space, and noted the goal was to have sheltered bus stops but benches would be a good starting point.

Council Member Andrews asked if locations with trees could be explored for the installation of benches to make the bus stops more pleasant, asked for the color of the benches to be Hayward branded such as the green color, and suggested coordinating with developers to include in conditions of approval the upgrade of bus shelters.

Council Member Roche supported the idea of having bus stops near trees, sharing that she received a comment from a community member suggesting that for every bus bench a tree be planted, and received confirmation that the referral sought installing benches and alternative funding for their maintenance.

Mayor Pro Tempore Andrews opened the public comment period at 9:21 p.m.

AC Transit Board Member McCalley, also representing Board Member Shaw, shared that AC Transit provides the bus service and the City controls the right-of-way, and through the collaboration the rider experience is the best possible, noted AC Transit encourages cities to fashion shelter and bench designs consistent with their community needs, and was supportive of the referral.

AC Transit Director of Service Development and Planning Robert Del Rosario, supported the Council referral, noted the bus bench was a low cost but effective solution for improving bus stops, looked forward to collaborating with City staff on assessing the 363 bus stops in Hayward to determine which stops are appropriate for bus benches according to adopted guidelines, and appreciated the proposed contribution from the City to start the effort of the initiative.

Peggy Guernsey spoke about her experience as a bus rider noting she had not found AC Transit bus drivers helpful to individuals with disabilities, noted trees in Hayward are not ADA friendly and cause allergic reactions, and underscored that AC Transit had cancelled bus routes to South Hayward.

Diann Castleberry with AC Transit indicated her agency was planning to present to Council on November 7, 2023, the AC Transit Realign Project, with an opportunity to review and update the bus network to better serve the community.

Tom Ferreira, Hayward Concerned Citizens member, wondered about the design of the bus seats.

Mayor Salinas closed the public comment period at 9:28 p.m.

Council Member Syrop thanked the public for their comments noting AC Transit representatives were able to hear concerns expressed; noted the proposed seats were designed so that individuals could not lay down on them and would be installed on both sides of the stop pole or with two seats with a rung in the middle; noted the increase to ten seats would be



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\$60,000 and it was an opportunity to install infrastructure for the community in places that may need them the most.

It was moved by Council Member Syrop, seconded by Council Member Zermeño, and carried by the following roll call vote, to adopt the referral with the amendment to pilot ten seats.

AYES: COUNCIL MEMBERS Andrews, Bonilla Jr., Goldstein, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

ADJOURNMENT

Mayor Salinas adjourned the City Council meeting at 9:35 p.m.

APPROVED

A handwritten signature in black ink, appearing to read "Mark Salinas", written over a horizontal line.

Mark Salinas
Mayor, City of Hayward

ATTEST:

A handwritten signature in blue ink, appearing to read "Miriam Lens", written over a horizontal line.

Miriam Lens
City Clerk, City of Hayward